



WEB COPY



W.P.No.20610 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.20610 of 2012
and M.P.No.1 of 2012

S.Balagurusamy

... Petitioner

-Vs-

The Chief Engineer (Personnel),
Tamilnadu Generation and
Distribution Corporation Limited,
(Formerly known as Tamil Nadu Electricity Board),
No.144, Anna Salai,
Chennai – 600 002.

... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondent to consider petitioner's representation dated 11.07.2012 and to give the petitioner absorption and appointment forthwith as helper by giving preference based on the apprenticeship training which he has joined in the respondent Board prior to 13.09.1988 and as given to other similarly placed persons like me.

For Petitioner : Mr.V.Ajoy Khose

For Respondent : Ms.N.Nilani Claire
for M/s.T.S.Gopalan and Co



W.P.No.20610 of 2012

WEB COPY

ORDER

This writ petition has been filed for direction directing the respondent to appoint the petitioner as Helper by giving preference based on the apprenticeship training.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

3. The respondent Board issued proceedings dated 26.06.1984 and issued directions to give preference in the matter of absorption to the apprentices who have undergone apprenticeship training in various trades with the Board, after their successful training, while going for direct recruitment in the respective posts. The petitioner is an ITI Certificate Holder in the Electrician Trade. He had undergone National Apprenticeship Training in Switch Board Attender Trade under the respondent Board from 29.03.1988 to 28.03.1991. However, he was not given preference for direct recruitment. The petitioner also stated that the similarly placed persons approached this Court by various writ petitions and they were granted employment as per the Board proceedings. The



W.P.No.20610 of 2012

Hon'ble Supreme Court of India had given cut off date as 13.09.1988.

Those who had completed their apprenticeship training, they are eligible to be given preference for recruitments. Therefore, the petitioner made a representation seeking employment.

4. A perusal of the counter filed by the respondent revealed that insofar as the post of Helper (Trainee) was made in the year 2009, 2014 recently in the year 2016, wherein the upper age limit have been relaxed by five years based on adoption orders issued in B.P.No.25 (Adm.Br) dated 28.10.2006. In the recent recruitment during the year 2016, the said post has been made through open market. The petitioner, after availing the age relaxation and benefits had participated in the direct recruitment made during the year 2014. However, he was not selected on merits of the marks. Now, he seeks appointment on basis of the Apprenticeship Training. In spite of having been participated in the recruitment made in the year 2014, now he has submitted an application seeking appointment on the basis of his apprenticeship, on the strength of the similarly placed person were given appointment, those who were completed apprenticeship training in the Board before the crucial date



W.P.No.20610 of 2012

namely 13.09.1988.

WEB COPY

5. The Hon'ble Supreme Court of India in the case of ***State of Uttar Pradesh and others Vs V.Arvind Kumar Srivastava and others*** reported in ***(2015) 1 SCC 347*** held as follows:-

“22.1. Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did approach the Court earlier, they are not to be treated differently.

22.2. However, this principle is subject to well recognized exceptions in the form of laches and delays as well acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence- sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

22.3. However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly



W.P.No.20610 of 2012

WEB COPY

waited till the persons who had approached this Court in the year 2000 itself and got some relief. Therefore, the person claiming equality has to prove his case for eligibility as per the rules in the first instance and then only he can seek any parity. Further, the petitioner is a Fence-Sitter and his claim is very belated one. Therefore, on the ground of laches, the petitioner is not entitled for any relief on the ground of parity. That apart, the petitioner had already participated in the recruitment process and having been failed in the recruitment process held in the year 2014, he is seeking employment on the basis of apprenticeship.

8. In view of the above, this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

04.09.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
mn/nsl



WEB COPY



W.P.No.20610 of 2012

G.K.ILANTHIRAIYAN, J.

mn

To

The Chief Engineer (Personnel),
Tamilnadu Generation and Distribution Corporation Limited,
(Formerly known as Tamilnady Electricity Board),
No. 144, Anna Salai,
Chennai – 600 002.

W.P.No.20610 of 2012

04.09.2023